

Andrew B. Downs, SBN 111435
E-Mail: andy.downs@bullivant.com
BULLIVANT HOUSER BAILEY PC
601 California Street, Suite 1800
San Francisco, California 94108
Telephone: 415.352.2700
Facsimile: 415.352.2701

Attorneys for Plaintiff United States Fire
Insurance Company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES FIRE INSURANCE
COMPANY, a corporation,

Plaintiff,

vs.

VESTA STRATEGIES, LLC, a limited liability
company; SAMUEL W. HENKA, an
individual,

Defendants.

Case No.: C 09 02388 JW PVT

**STIPULATION AND ORDER
REGARDING PRETRIAL DEADLINES**

Plaintiff United States Fire Insurance Company and defendant Vesta Strategies, LLC, by
and through its Court-Appointed Receiver Thomas Dillon, stipulate as follows:

1. On December 16, 2009, the Court entered a Scheduling Order at Docket # 121,
which set various deadlines, including the following:

Close of All Discovery	March 14, 2011
Last Date for Hearing Dispositive Motions	May 9, 2011
Preliminary Pretrial Conference at 11:00 a.m.	February 14, 2011
Preliminary Pretrial Conference Statements	February 4, 2011

2. Also on December 16, 2009, the Court entered an Order appointing Thomas
Dillon as Receiver of Vesta Strategies, LLC (Docket #123). On December 22, 2009, the

Receiver's Oath and Affirmation were filed (Docket # 126). On January 13, 2010, the Court approved the Receiver's Bond (Docket # 129).

3. On September 23, 2010, the Court entered an Order appointing the firm of Hollister & Brace as counsel for the Receiver (Docket # 188).

4. In the period between the entry of the Scheduling Order and today, the Court has dismissed the Counterclaim of defendant Henka and the putative class which he sought to represent, leaving only U.S. Fire, Vesta and Samuel Henka as parties to this lawsuit. (Docket # 181, May 27, 2010). U.S. Fire and Henka are contemporaneously submitting a Stipulation and Order for dismissal without prejudice of U.S. Fire's claims against Henka, which will leave U.S. Fire and Vesta, through the Receiver, as the only parties to this action.

5. On October 22, 2010, the Court granted a Stipulation and Order to set aside the default of Vesta and gave Vesta 10 days to file a Counterclaim. Docket # 191.

6. Because Vesta has just appeared in this action, the remaining time allotted for discovery in this action is insufficient to for purposes of resolving the issues between U.S. Fire and Vesta. Vesta and U.S. Fire stipulate and request that the Court amend the December 21, 2009 Scheduling Order to make the deadlines as follows:

Close of All Discovery	January 13, 2012
Last Date for Hearing Dispositive Motions	March 26, 2012
Preliminary Pretrial Conference at 11:00 a.m.	December 12, 2011
Preliminary Pretrial Conference Statements	December 2, 2011

These dates represent an extension of approximately 10 months, equivalent to the amount of time which has elapsed between the appointment of the Receiver, and the authorization of retention of counsel by the Receiver with the subsequent vacating of the default of Vesta.

DATED: October 29, 2010

BULLIVANT HOUSER BAILEY PC

By /s/ Andrew B. Downs
Andrew B. Downs, SBN 111435

Attorneys for Plaintiff United States Fire Insurance Company

DATED: 10/29/10

HOLLISTER & BRACE

By /s/ Peter L. Candy (per e-mail authorization)
Robert L. Brace, SBN 122240
Peter L. Candy, SBN 149976

Attorneys for Thomas Dillon, Court-Appointed Receiver for defendant Vesta Strategies, LLC and for defendant Samuel Henka

ORDER

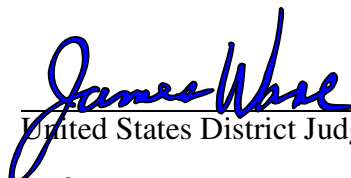
The parties having stipulated and good cause appearing due to the need for the Receiver to retain counsel,

IT IS HEREBY ORDERED that the Scheduling Order filed December 16, 2009 (Docket # 121) is modified to substitute the following deadlines in the Case Schedule:

Close of All Discovery (¶ 9)	January 13, 2012
Last Date for Hearing Dispositive Motions (¶ 10)	March 26, 2012
Preliminary Pretrial Conference at 11:00 a.m. (¶ 13)	December 12, 2011
Preliminary Pretrial Conference Statements (¶ 11)	December 2, 2011

All other provisions and deadlines set in the Scheduling Order filed December 16, 2009 (Docket # 121) shall remain in full force and effect.

DATED: November 3, 2010


United States District Judge